

YAP CHIN MIN v. LOH AH PENG.

[A. C. J. (Sir Charles Murray-Aynsley, C.J.)
March 6, 1953]

[Singapore — District Court Appeal No. 18 of 1952]

Control of Rent Ordinance, 1947, s. 14(1)(l) —
"Owner" — Meaning of.

The question raised in this appeal was whether the appellant who was a lessee of land for five years with the option of renewal for a further five years could be regarded as an owner within the meaning of section 14 (1)(l) of the Control of Rent Ordinance.

Held: the appellant could not be regarded as owner within the meaning of section 14(1)(l) of the Control of Rent Ordinance.

DISTRICT COURT APPEAL.

P. H. Duff for the appellant.

Lee Kuan Yew for the respondent.

Sir Charles Murray-Aynsley, C.J. : — This appeal was concerned with a short point arising from the construction of section 14(1)(l) of the Control of Rent Ordinance No. 25 of 1947. The owner of the freehold at the time of hearing in the Court below agreed to give to the appellant a lease for five years with the option of renewal for a further five years. The appellant intended to erect buildings of a permanent nature. The Court could in the circumstances grant possession to the owner and the question to be determined is whether or not the appellant is the owner within the meaning of (l) of sub-section (1). The learned District Judge considered that owner means absolute owner. The word "owner" is not a term of art; it has no precise technical meaning. It may be that a person with a lease for 999 or even 99 years would be regarded as owner for the purposes of this clause but I am quite sure that the appellant cannot be regarded as "owner". If land is to be developed in this way there must be a change in the law.

The appeal must be dismissed with costs. Deposit to respondent.

Appeal dismissed.

R. v. TAN AH INN & ORS.

[A. Cr. J. (Brown, J.) February 20, 1953]

[Singapore — Special Case No. 4 of 1952]

Dangerous Drugs Ordinance, 1951, s. 10(2)(b) —
Frequenting — Meaning of.

The short point in this case was upon the meaning of the word "frequent" in section 10(2)(b) of the Dangerous Drugs Ordinance, 1951. In a number of English cases quoted herein, the word had been extended to mean being in a place long enough for the purpose or intent in hand, but in these cases the wrongful purpose or intent was an essential ingredient of the charge.

Held: in section 10(2)(b) no intent or purpose need be proved so that the word "frequent" contained therein could not be given the meaning of being in a place long enough. It could only be given its ordinary meaning of "visiting often", so that a person committed an offence under this section if he visited one set of premises often, or if he visited a number of similar premises on one occasion each.

Cases referred to:—

- (1) *Clark v. The Queen* 14 Q.B.D. 92.
- (2) *Airton v. Scott* 25 T.L.R. 250.
- (3) *Clark v. Taylor* (1948) W.N. 410.
- (4) *Glynn v. Simmons* (1952) 2 All E.R. 47.

SPECIAL CASE.

A. H. Simpson (Crown Counsel) for the Crown.

Lee Kuan Yew (*Amicus Curiae*) for the accused.*Cur. Adv. Vult.*

Brown, J. : — The short point in this case is upon the meaning of the word "frequent" in section 10(2)(b) of the Dangerous Drugs Ordinance 1951, which reads as follows:—

"If any person smokes or otherwise consumes prepared opium or frequents any place or places used for the purpose of smoking or otherwise consuming prepared opium, he shall be guilty of an offence"

Mr. Simpson, on behalf of the Crown, has contended that the word "frequent" means that the person must be there long enough to indicate that he is not just a casual visitor. In this case there was no evidence to shew how long the accused had been on the premises, nor any evidence to shew that they had been there before.

In the absence of any definition of the word "frequent" in the Ordinance one must be guided by its ordinary dictionary meaning and by the decided cases in which the meaning of the word has been considered. In Webster's Dictionary the verb "to frequent" is thus defined, "to visit often; to resort to often or habitually." This was the meaning which was accepted and applied in the case of *Clark v. The Queen*⁽¹⁾ in quashing a conviction under section 4 of the Vagrancy Act for "frequenting the public thoroughfare with intent to commit a felony."

Since then there have been the cases of *Airton v. Scott*⁽²⁾, *Clark v. Taylor*⁽³⁾ and *Glynn v. Simmons*⁽⁴⁾. These authorities have to some extent modified the strict dictionary meaning of the word in interpreting an enactment which makes it an offence to "frequent" a place with some wrongful purpose or intent. It must be taken as settled that in such a case "frequenting" means being in that place long enough for the purpose or intent in hand. In *Airton v. Scott*⁽²⁾ the charge was of frequenting a public place for the purpose of betting, contrary to a Sheffield Bye-law. In both *Clark v.*

Taylor⁽³⁾ and *Glynn v. Simmons*⁽⁴⁾ the charge was under section 4 of the Vagrancy Act with frequenting a place of public resort *with intent to commit a felony*.

The point is that in those cases the wrongful purpose or intent was an essential ingredient of the charge; and a person "frequents" a place if he is there long enough to effect the wrongful purpose or intent with which he is charged. But in the section under consideration no intent or purpose need be proved; and I must disagree with the opinion expressed by the learned District Judge that "an intent to smoke opium is necessary to substantiate a charge of frequenting." The section does not say so, nor in my opinion can any such meaning be implied. The offence under the section is the mere act of "frequencing."

It is conceded by Mr. Simpson that one casual visit would not be "frequencing." If the Legislature had intended to make that an offence the term used would have been "is found in." And as no purpose or intent is specified this case cannot fall within the class of case to which I have referred where it has been held that frequenting means being there long enough for the purpose or intent in hand. Therefore the word can only be given its ordinary meaning of "visiting often." The section makes it an offence to frequent any place or places. A person commits an offence under the section if he visits one set of premises often, or if he visits a number of similar premises on one occasion each. But he does not commit an offence under this section by visiting one set of premises once only.

CHU WAN THONG v. PUBLIC PROSECUTOR; LU WAH THONG v. PUBLIC PROSECUTOR.

[A. Cr. J. (Briggs, J.) January 15, 1953]

[Raub — Criminal Appeals Nos. 8 & 9 of 1952]

Public Service and Vehicles (Licensing) Regulations, 1948, reg. 2 — "Goods vehicle" — Meaning of.

The question raised in these appeals was whether a station wagon was a "goods vehicle" within the meaning of reg. 2 of the Public Service and Goods Vehicles (Licensing) Regulations.

Held: as a station wagon is not mainly constructed or adapted for the carriage of goods, it does not come within the definition of a "goods vehicle".

CRIMINAL APPEAL.

R. P. S. Rajasooria for the appellants.

J. D. Peterkin (Federal Counsel) for the Public Prosecutor.

Cur. Adv. Vult.

Briggs, J. [delivering oral judgment, said]: — These two appeals were heard together as the convictions

in question were convictions of the driver and owner respectively of the same vehicle and in respect of the same transaction. The facts were that the vehicle was a station wagon. There are no details on the record showing what sort of a station wagon it was, but the prosecution's case was that it was a 'goods vehicle' within the meaning of Regulation 2 of the Public Service and Goods Vehicles (Licensing) Regulations, Gazette Notification No. 101 of 31st December, 1945. If it was a 'goods vehicle' under rule 3 of those Regulations, it was not allowed to be used for the conveyance of goods on a road repairable at public expense, unless there was a Goods Vehicle Licence in force in respect of it. If, however, it was not a goods vehicle but a passenger vehicle, goods could be carried on it without any offence being committed.

The two appellants were both under the impression that in law the vehicle must be treated as a goods vehicle, and that offences had therefore been committed. There was in each case a second charge that the said goods vehicle was used for the carriage of goods without a permit, and to these charges also the appellants pleaded guilty. On those pleas a third charge was added, of using the vehicle without having in force in respect thereof proper third party insurance, and to this again the pleas were guilty; but if the vehicle was a passenger vehicle no offence was committed in any of the three cases.

The definition of 'goods vehicle' in the regulations is as follows: "'goods vehicle' means a motor-vehicle constructed or adapted for the carriage of goods, or a trailer so constructed or adapted." I am of opinion that a normal station wagon is not within this definition for the following reasons. I think that a station wagon is 'constructed', not for the carriage of goods, but for the carriage of passengers together with an unusually large amount of luggage, or sports equipment, camping equipment or the like, which is not ordinarily capable of being accommodated in a simple passenger car. I think that 'constructed for the carriage of goods' implies a vehicle which one would normally describe as a 'commercial vehicle', and I do not think that a station wagon is a commercial vehicle in the ordinary sense. It is intended to be domestic vehicle, but with unusually good facilities for carrying luggage or other paraphernalia. It is not primarily intended for the carriage of 'goods' which means goods in the commercial sense. If then it is not 'constructed' for the carriage of goods, can it be said to be 'adapted' for the carriage of goods? I think not. I think 'adapted' does not mean merely 'suitable', but definitely means in some way constructionally changed so as to have a